

# An Act

ENROLLED SENATE  
BILL NO. 906

By: Bice of the Senate

and

McEntire of the House

An Act relating to alcoholic beverages; amending Section 3, Chapter 366, O.S.L. 2016, as last amended by Section 20 of Enrolled Senate Bill No. 1041 of the First Session of the 57th Oklahoma Legislature (37A O.S. Supp. 2018, Section 1-103), which relates to definitions; adding certain definitions; modifying certain definitions; amending Section 4, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, Section 1-104), which relates to the Alcoholic Beverage Laws Enforcement Commission; modifying the authorities of certain interim licensees; amending Section 14, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 315, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-102), which relates to the brewer license; expanding authorities to pertain to cider; providing for the retroactive conversion of manufacturer licenses to brewer licenses; requiring additional licensure in certain circumstances; amending Section 20, Chapter 366, O.S.L. 2016, as amended by Section 12, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-108), which relates to the beer distributor license; expanding authorities to pertain to cider; modifying certain retail sales authorities; authorizing the donation of beer or cider in certain circumstances; authorizing the transport of certain alcoholic beverages in specific circumstances; expanding certain existing exemption to manufacturers; amending Section 25, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-113), which relates to the caterer license; setting certain

purchase restriction on licensees; amending Section 32, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-120), which relates to the wholesaler's agent license; narrowing sales authorization; prohibiting certain cross-licensing; amending Section 47, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-135), which relates to the manufacturer's license; narrowing the scope of certain license authorities; eliminating certain restriction on brewers; expanding to whom notice and a hearing must be provided; modifying certain restriction on the importation of alcoholic beverages; narrowing scope of imports that require providing Commission with certain information and documents; amending Section 48, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-136), which relates to the manufacturer's agent license; making certain prohibition inapplicable to beer distributor; amending Section 58, Chapter 366, O.S.L. 2016, as amended by Section 4, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-146), which relates to grounds to deny certain licenses; making certain ownership interest restriction applicable to brewers; allowing issuance of beer distributor license to a limited liability corporation; amending Section 60, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-148), which relates to license revocation and suspension; making certain grounds for suspension or revocation applicable to brewers; amending Section 71, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-101), which relates to personal use, possession, and manufacture of alcoholic beverages; expanding prohibition on certain sales of alcoholic beverages to brewers; requiring all who make certain sales to obtain the appropriate licensure; amending Section 72, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-102), which relates to rule promulgation authority; expanding authority to promulgate rules to inform consumers about brewers; amending Section 77, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-107), which relates to statutory regulation

of sales; modifying certain requirements to relate to brewers and not manufacturers; amending Section 78, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 209, O.S.L. 2018 (37A O.S. Supp. 2018, Section 3-108), which relates to licensed distributor agreements; modifying certain requirements to pertain to brewers and cider manufacturers; amending Section 80, Chapter 366, O.S.L. 2016, as amended by Section 15, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 3-110), which relates to licensed beer distributors; making certain requirements applicable to brewers and cider manufacturers; providing an exception to certain prohibition; making certain sales authorization authorities available to brewers and cider manufacturers; granting certain authorizations for temporary events, with certain restrictions and requirements; amending Section 82, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-112), which relates to brewpubs; modifying who may qualify for a brewpub license; amending Section 85, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-115), which relates to withdrawal from retailer's stock; expanding applicability to cider; modifying replacement requirements; providing certain exception; amending Section 86, Chapter 366, O.S.L. 2016, as amended by Section 17, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 3-116), which relates to the sale of foreign-made or -bottled alcoholic beverages; modifying certain exception as related to a brewer; narrowing certain requirement prohibition; modifying certain posting requirements to be applicable to designated wholesalers; modifying applicability of certain posting requirements; amending Section 18, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 3-116.1), which relates to posting requirements; modifying certain posting requirements and making applicable to additional licensees; modifying certain exception; amending Section 19, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 3-116.2), which relates to designated wholesalers; making applicable to brewers and beer distributors under certain circumstances; modifying

certain exception; amending Section 87, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-117), which relates to the sales of alcoholic beverages packaged with nonalcoholic promotional items; making applicable to brewers; amending Section 89, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-119), which relates to prohibited business interests and acts of certain licensees; expanding certain prohibition to relate to brewers; amending Section 90, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-120), which relates to prohibited business interests of certain licensees; expanding certain prohibition to relate to brewers; amending Section 91, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-121), which relates to certain business interests; expanding certain prohibition to relate to brewers; amending Section 92, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-122), which relates to business interests in interactive entertainment facilities; clarifying applicability of certain prohibitions as related to brewers; modifying certain requirements to be applicable to brewers; modifying certain requirement on purchase of alcoholic beverages; amending Section 93, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-123), which relates to the sale of alcoholic beverages to wholesalers and retailers; expanding certain restrictions on sales to be applicable to beer distributors; providing a means to provide an exception to certain prohibitions; defining certain term; clarifying whether certain actions are or are not inducements; amending Section 101, Chapter 366, O.S.L. 2016, as amended by Section 21, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 4-104), which relates to municipal occupational tax; authorizing municipalities to levy an occupational tax on brewers; modifying certain imposition of certain liability as related to brewers; amending Section 111, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-108), which relates to promulgation of certain rules; eliminating certain requirement related to the shipping of beer into Oklahoma;

amending Section 112, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-109), which relates to credits or refunds and stamps; expanding applicability to brewers; amending Section 116, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-113), which relates to furnishing of permits prior to certain sales; requiring beer distributors to furnish copy of permit prior to certain sales; requiring brewers to furnish copy of permit prior to certain sales; amending Section 125, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-122), which relates to certain reports; requiring brewers to make and transmit certain report to the Oklahoma Tax Commission; modifying information reported; amending Section 127, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-124), which relates to bond; requiring brewers to file certain bond with the Oklahoma Tax Commission; authorizing brewers to make certain deposits in lieu of filing bond; amending Section 128, Chapter 366, O.S.L. 2016, as amended by Section 4, Chapter 113, O.S.L. 2018 (37A O.S. Supp. 2018, Section 5-125), which relates to certain information required for sales, transit and delivery of alcoholic beverages; making certain requirements applicable to brewers; amending Section 129, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-126), which relates to record keeping; requiring brewers to keep certain records; amending Section 135, Chapter 366, O.S.L. 2016, as amended by Section 23, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 5-132), which relates to the brand label requirement; making certain requirements applicable to brewers; providing for the transfer of certain brands in certain circumstances; modifying discretion to exempt discontinued brands from certain fee provisions; and declaring an emergency.

SUBJECT: Alcoholic beverages

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 3, Chapter 366, O.S.L. 2016, as last amended by Section 20 of Enrolled Senate Bill No. 1041 of the First Session of the 57th Oklahoma Legislature (37A O.S. Supp. 2018, Section 1-103), is amended to read as follows:

Section 1-103. As used in the Oklahoma Alcoholic Beverage Control Act:

1. "ABLE Commission" or "Commission" means the Alcoholic Beverage Laws Enforcement Commission;

2. "Alcohol" means and includes hydrated oxide of ethyl, ethyl alcohol, ethanol or spirits of wine, from whatever source or by whatever process produced. It does not include wood alcohol or alcohol which has been denatured or produced as denatured in accordance with Acts of Congress and regulations promulgated thereunder;

3. "Alcoholic beverage" means alcohol, spirits, beer and wine as those terms are defined herein and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings;

4. "Applicant" means any individual, legal or commercial business entity, or any individual involved in any legal or commercial business entity allowed to hold any license issued in accordance with the Oklahoma Alcoholic Beverage Control Act;

5. "Beer" means any beverage of alcohol by volume and obtained by the alcoholic fermentation of an infusion or decoction of barley, or other grain, malt or similar products. "Beer" may or may not contain hops or other vegetable products. "Beer" includes, among other things, beer, ale, stout, lager beer, porter and other malt or brewed liquors, but does not include sake, known as Japanese rice wine;

6. "Beer keg" means any ~~manufacturer-sealed~~ brewer-sealed, single container that contains not less than four (4) gallons of beer;

7. "Beer distributor" means and includes any person licensed to distribute beer for retail sale in the state, but does not include a holder of a small brewer self-distribution license or brewpub self-distribution license. The term "distributor", as used in the Oklahoma Alcoholic Beverage Control Act, shall be construed to refer to a beer distributor;

8. "Bottle club" means any establishment in a county which has not authorized the retail sale of alcoholic beverages by the individual drink, which is required to be licensed to keep, mix and serve alcoholic beverages belonging to club members on club premises;

9. "Brand" means any word, name, group of letters, symbol or combination thereof, that is adopted and used by a licensed ~~manufacturer~~ brewer to identify a specific beer and to distinguish that product from another beer;

10. "Brand extension" means:

- a. after October 1, 2018, any brand of beer or cider introduced by a manufacturer in this state which either:
  - (1) incorporates all or a substantial part of the unique features of a preexisting brand of the same licensed ~~manufacturer~~ brewer, or
  - (2) relies to a significant extent on the goodwill associated with the preexisting brand, or
- b. any brand of beer that a ~~manufacturer~~ brewer, the majority of whose total volume of all brands of beer distributed in this state by such ~~manufacturer~~ brewer on January 1, 2016, was distributed as low-point beer, desires to sell, introduces, begins selling or theretofore has sold and desires to continue selling a strong beer in this state which either:
  - (1) incorporates or incorporated all or a substantial part of the unique features of a preexisting low-

point beer brand of the same licensed  
~~manufacturer~~ brewer, or

- (2) relies or relied to a significant extent on the goodwill associated with a preexisting low-point beer brand;

11. "Brewer" means and includes any person who manufactures for human consumption by the use of raw materials or other ingredients any beer or cider upon which a license fee and a tax are imposed by any law of this state;

12. "Brewpub" means a licensed establishment operated on the premises of, or on premises located contiguous to, a small brewer, that prepares and serves food and beverages, including alcoholic beverages, for on-premises consumption;

13. "Cider" means any alcoholic beverage obtained by the alcoholic fermentation of fruit juice, including but not limited to flavored, sparkling or carbonated cider. For the purposes of the manufacture of this product, cider may be manufactured by either manufacturers or brewers. For the purposes of the distribution of this product, cider may be distributed by either wine and spirits wholesalers or beer distributors;

14. "Convenience store" means any person primarily engaged in retailing a limited range of general household items and groceries, with extended hours of operation, whether or not engaged in retail sales of automotive fuels in combination with such sales;

15. "Convicted" and "conviction" mean and include a finding of guilt resulting from a plea of guilty or nolo contendere, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof;

16. "Designated products" means the brands of wine or spirits offered for sale by a manufacturer that the manufacturer has assigned to a designated wholesaler for exclusive distribution;



17. "Designated wholesaler" means a wine and spirits wholesaler who has been selected by a manufacturer as a wholesaler appointed to distribute designated products;

18. "Director" means the Director of the ABLE Commission;

~~17.~~ 19. "Distiller" means any person who produces spirits from any source or substance, or any person who brews or makes mash, wort or wash, fit for distillation or for the production of spirits (except a person making or using such material in the authorized production of wine or beer, or the production of vinegar by fermentation), or any person who by any process separates alcoholic spirits from any fermented substance, or any person who, making or keeping mash, wort or wash, has also in his or her possession or use a still;

~~18.~~ 20. "Distributor agreement" means the written agreement between the distributor and ~~manufacturer~~ brewer as set forth in Section 3-108 of this title;

~~19.~~ 21. "Drug store" means a person primarily engaged in retailing prescription and nonprescription drugs and medicines;

~~20.~~ 22. "Dual-strength beer" means a brand of beer that, immediately prior to April 15, 2017, was being sold and distributed in this state:

- a. as a low-point beer pursuant to the Low-Point Beer Distribution Act in effect immediately prior to October 1, 2018, and
- b. as strong beer pursuant to the Alcoholic Beverage Control Act in effect immediately prior to October 1, 2018,

and continues to be sold and distributed as such on October 1, 2018. Dual-strength beer does not include a brand of beer that arose as a result of a brand extension as defined in this section;

~~21.~~ 23. "Fair market value" means the value in the subject territory covered by the written agreement with the distributor or wholesaler that would be determined in an arm's length transaction

entered into without duress or threat of termination of the distributor's or wholesaler's rights and shall include all elements of value, including goodwill and going-concern value;

~~22.~~ 24. "Good cause" means:

- a. failure by the distributor to comply with the material and reasonable provisions of a written agreement or understanding with the ~~manufacturer~~ brewer, or
- b. failure by the distributor to comply with the duty of good faith;

~~23.~~ 25. "Good faith" means the duty of each party to any distributor agreement and all officers, employees or agents thereof to act with honesty in fact and within reasonable standards of fair dealing in the trade;

~~24.~~ 26. "Grocery store" means a person primarily engaged in retailing a general line of food, such as canned or frozen foods, fresh fruits and vegetables, and fresh and prepared meats, fish and poultry;

~~25.~~ 27. "Hotel" or "motel" means an establishment which is licensed to sell alcoholic beverages by the individual drink and which contains guestroom accommodations with respect to which the predominant relationship existing between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of other legal relationships as between some occupants and the owner or operator thereof shall be immaterial;

~~26.~~ 28. "Legal newspaper" means a newspaper meeting the requisites of a newspaper for publication of legal notices as prescribed in Sections 101 through 114 of Title 25 of the Oklahoma Statutes;

~~27.~~ 29. "Licensee" means any person holding a license under the Oklahoma Alcoholic Beverage Control Act, and any agent, servant or employee of such licensee while in the performance of any act or duty in connection with the licensed business or on the licensed premises;

~~28.~~ 30. "Low-point beer" shall mean any beverages containing more than one-half of one percent (1/2 of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including but not limited to, beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion by barley or other grain, malt or similar products;

~~29.~~ 31. "Manufacturer" means a ~~brewer~~, distiller, winemaker, rectifier or bottler of any alcoholic beverage (other than beer) and its subsidiaries, affiliates and parent companies;

~~30.~~ 32. "Manufacturer's agent" means a salaried or commissioned salesperson who is the agent authorized to act on behalf of the manufacturer or nonresident seller in the state;

~~31.~~ 33. "Meals" means foods commonly ordered at lunch or dinner and at least part of which is cooked on the licensed premises and requires the use of dining implements for consumption. Provided, that the service of only food such as appetizers, sandwiches, salads or desserts shall not be considered "meals";

~~32.~~ 34. "Mini-bar" means a closed container, either refrigerated in whole or in part, or nonrefrigerated, and access to the interior of which is:

- a. restricted by means of a locking device which requires the use of a key, magnetic card or similar device, or
- b. controlled at all times by the licensee;

~~33.~~ 35. "Mixed beverage cooler" means any beverage, by whatever name designated, consisting of an alcoholic beverage and fruit or vegetable juice, fruit or vegetable flavorings, dairy products or carbonated water containing more than one-half of one percent (1/2 of 1%) of alcohol measured by volume but not more than seven percent (7%) alcohol by volume at sixty (60) degrees Fahrenheit and which is packaged in a container not larger than three hundred seventy-five (375) milliliters. Such term shall include but not be limited to the beverage popularly known as a "wine cooler";

~~34.~~ 36. "Mixed beverages" means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, public event, charitable event or special event license;

~~35.~~ 37. "Motion picture theater" means an establishment which is licensed by Section 2-110 of this title to sell alcoholic beverages by the individual drink and where motion pictures are exhibited, and to which the general public is admitted;

~~36.~~ 38. "Nondesignated products" means the brands of wine or spirits offered for sale by a manufacturer that have not been assigned to a designated wholesaler;

39. "Nonresident seller" means any person licensed pursuant to Section 2-135 of this title;

~~37.~~ 40. "Retail salesperson" means a salesperson soliciting orders from and calling upon retail alcoholic beverage stores with regard to his or her product;

~~38.~~ 41. "Occupation" as used in connection with "occupation tax" means the sites occupied as the places of business of the manufacturers, brewers, wholesalers, beer distributors, retailers, mixed beverage licensees, on-premises beer and wine licensees, bottle clubs, caterers, public event and special event licensees;

~~39.~~ 42. "Original package" means any container of alcoholic beverage filled and stamped or sealed by the manufacturer or brewer;

~~40.~~ 43. "Package store" means any sole proprietor or partnership that qualifies to sell wine, beer and/or spirits for off-premise consumption and that is not a grocery store, convenience store or drug store, or other retail outlet that is not permitted to sell wine or beer for off-premise consumption;

~~41.~~ 44. "Patron" means any person, customer or visitor who is not employed by a licensee or who is not a licensee;

~~42.~~ 45. "Person" means an individual, any type of partnership, corporation, association, limited liability company or any individual involved in the legal structure of any such business entity;

~~43.~~ 46. "Premises" means the grounds and all buildings and appurtenances pertaining to the grounds including any adjacent premises if under the direct or indirect control of the licensee and the rooms and equipment under the control of the licensee and used in connection with or in furtherance of the business covered by a license. Provided that the ABLE Commission shall have the authority to designate areas to be excluded from the licensed premises solely for the purpose of:

- a. allowing the presence and consumption of alcoholic beverages by private parties which are closed to the general public, or
- b. allowing the services of a caterer serving alcoholic beverages provided by a private party.

This exception shall in no way limit the licensee's concurrent responsibility for any violations of the Oklahoma Alcoholic Beverage Control Act occurring on the licensed premises;

~~44.~~ 47. "Private event" means a social gathering or event attended by invited guests who share a common cause, membership, business or task and have a prior established relationship. For purposes of this definition, advertisement for general public attendance or sales of tickets to the general public shall not constitute a private event;

~~45.~~ 48. "Public event" means any event that can be attended by the general public;

~~46.~~ 49. "Rectifier" means any person who rectifies, purifies or refines spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing, from mash, wort, wash or other substance, through continuous closed vessels and pipes, until the production thereof is complete), and any person who, without rectifying, purifying or refining spirits, shall by mixing (except for immediate consumption on the premises

where mixed) such spirits, wine or other liquor with any material, manufactures any spurious, imitation or compound liquors for sale, under the name of whiskey, brandy, rum, gin, wine, spirits, cordials or any other name;

~~47.~~ 50. "Regulation" or "rule" means a formal rule of general application promulgated by the ABLE Commission as herein required;

~~48.~~ 51. "Restaurant" means an establishment that is licensed to sell alcoholic beverages by the individual drink for on-premises consumption and where food is prepared and sold for immediate consumption on the premises;

~~49.~~ 52. "Retail container for spirits and wines" means an original package of any capacity approved by the United States Bureau of Alcohol, Tobacco and Firearms;

~~50.~~ 53. "Retailer" means a package store, grocery store, convenience store or drug store licensed to sell alcoholic beverages for off-premise consumption pursuant to a Retail Spirits License, Retail Wine License or Retail Beer License;

~~51.~~ 54. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever, and includes and means all sales made by any person, whether as principal, proprietor or as an agent, servant or employee. The term "sale" is also declared to be and include the use or consumption in this state of any alcoholic beverage obtained within or imported from without this state, upon which the excise tax levied by the Oklahoma Alcoholic Beverage Control Act has not been paid or exempted;

~~52.~~ 55. "Short-order food" means food other than full meals including but not limited to sandwiches, soups and salads. Provided that popcorn, chips and other similar snack food shall not be considered "short-order food";

~~53.~~ 56. "Small brewer" means a brewer who manufactures sixty-five thousand (65,000) barrels of beer annually pursuant to a validly issued Small Brewer License hereunder;

~~54.~~ 57. "Small farm wine" means a wine that is produced by a small farm winery with seventy-five percent (75%) or more Oklahoma-grown grapes, berries, other fruits, honey or vegetables;

~~55.~~ 58. "Small farm winery" means a wine-making establishment that does not annually produce for sale more than fifteen thousand (15,000) gallons of wine as reported on the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, Report of Wine Premises Operations (TTB Form 5120.17);

~~56.~~ 59. "Sparkling wine" means champagne or any artificially carbonated wine;

~~57.~~ 60. "Special event" means an entertainment, recreation or marketing event that occurs at a single location on an irregular basis and at which alcoholic beverages are sold;

~~58.~~ 61. "Spirits" means any beverage other than wine or beer, which contains more than one-half of one percent (1/2 of 1%) alcohol measured by volume, and obtained by distillation, whether or not mixed with other substances in solution and includes those products known as whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds, but shall not include any alcohol liquid completely denatured in accordance with the Acts of Congress and regulations pursuant thereto;

~~59.~~ 62. "Strong beer" means beer which, prior to October 1, 2018, was distributed pursuant to the Oklahoma Alcoholic Beverage Control Act, Section 501 et seq. of Title 37 of the Oklahoma Statutes;

~~60.~~ 63. "Successor ~~manufacturer~~ brewer" means a primary source of supply, a brewer, a cider manufacturer or an importer that acquires rights to a beer or cider brand from a predecessor ~~manufacturer~~ brewer;

~~61.~~ 64. "Tax Commission" means the Oklahoma Tax Commission;

~~62.~~ 65. "Territory" means a geographic region with a specified boundary;

~~63.~~ 66. "Wine and spirits wholesaler" or "wine and spirits distributor" means and includes any sole proprietorship or partnership licensed to distribute wine and spirits in the state. The term "wholesaler", as used the Oklahoma Alcoholic Beverage Control Act, shall be construed to refer to a wine and spirits wholesaler; and

~~64.~~ 67. "Wine" means and includes any beverage containing more than one-half of one percent (1/2 of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine.

Words in the plural include the singular, and vice versa, and words imparting the masculine gender include the feminine, as well as persons and licensees as defined in this section.

SECTION 2. AMENDATORY Section 4, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, Section 1-104), is amended to read as follows:

Section 1-104. A. The Alcoholic Beverage Laws Enforcement Commission created in Section 1 of Article XXVIII of the Oklahoma Constitution is hereby re-created. The purpose of the Commission shall be to enforce the alcoholic beverage laws of the state, and the Commission shall have such power and authority to enforce such laws, rules and regulations as shall be prescribed by the Oklahoma Alcoholic Beverage Control Act.

B. The Commission shall consist of seven (7) members, to be appointed by the Governor with the advice and consent of the State Senate; provided, members serving on October 1, 2017, shall continue to serve until such time as their terms would have expired pursuant to the provisions of Section 1 of Article XXVIII of the Oklahoma Constitution. Five of the members shall be at-large members representing the lay citizenry. The remaining two members shall be persons with law enforcement experience in this state. Any time there is a vacancy on the Commission, the Governor shall appoint a replacement, with the advice and consent of the State Senate, within ninety (90) days.



C. Members of the Commission shall be appointed for a term of five (5) years.

D. No more than four members of the Commission shall be appointed from the same political party. No more than two members of the Commission shall be appointed from the same federal congressional district.

E. No member of the Commission shall hold any license authorized by the Oklahoma Alcoholic Beverage Control Act, or have any interest in any capacity, in the manufacture, sale, distribution or transportation of alcoholic beverages.

F. The members of the Commission shall be removable from office for cause as other officers not subject to impeachment.

G. The Commission shall appoint a Director, whose duties shall be defined as provided in Section 1-108 of this title.

H. The State of Oklahoma shall take all necessary steps to ensure the timely implementation of Enrolled Senate Joint Resolution No. 68 of the 2nd Session of the 55th Oklahoma Legislature, if approved by the voters. Consistent with this objective, the ABLE Commission shall have the power to issue interim licenses prior to October 1, 2018, as follows:

1. Except for the sale of wine or beer to the public, an interim license shall allow all qualified retail wine and retail beer licensees to perform all activities permissible under a full license including but not limited to purchasing, stocking and storing the wine and/or full-strength beer prior to October 1, 2018. In order to qualify for an interim license, the licensee must satisfy all the requirements set forth in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution and the Oklahoma Alcoholic Beverage Control Act. This interim license shall convert to a full license on October 1, 2018;

2. Package stores may install refrigerated coolers for the storage of beer and wine prior to October 1, 2018, provided the refrigerated coolers shall not be used to cool product below room temperature prior to October 1, 2018; and

3. An interim license shall allow all qualified wine and spirits wholesalers and beer distributors to perform all activities permissible under a full license including but not limited to selling and delivering wine and/or full-strength beer to all qualified retail wine and retail beer licensees. A wine and spirits wholesaler that has been designated by a manufacturer as a distributor of its wine or spirits may post those designated products by line-item, consistent with Section 3-116.2 of this title, on September 15, 2018, for sale effective October 1, 2018. In order to qualify for an interim license, the wine and spirits wholesaler and beer distributor must comply with the provisions set forth in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution and the Oklahoma Alcoholic Beverage Control Act. The interim license shall convert to a full license on October 1, 2018.

Provided, however, that a ~~manufacturer~~ brewer is only permitted to sell beer or cider to a beer distributor holding a valid interim license pursuant to this section as follows:

- a. such sales may begin no sooner than September 1, 2018,
- b. the beer distributor either must be assigned a beer distributor territory by the ~~manufacturer~~ brewer pursuant to a distributor agreement to begin October 1, 2018, or be a brewer or an affiliate of a brewer that will be permitted to distribute beer within two territories pursuant to the provisions of subsection E of Section 3-108 of this title, and
- c. the interim license only permits sales to retailers by the interim licensee either in the distribution territory as set forth in the distributor agreement or in the two territories permitted pursuant to the provisions of subsection E of Section 3-108 of this title.

I. No retail wine or retail beer licensee may sell wine and/or beer, other than low-point beer, and no package store may sell refrigerated wine and/or beer, prior to October 1, 2018. The sale or refrigeration of wine and/or beer in violation of this subsection

shall result in the revocation of the interim license and a monetary fine of Twenty-five Thousand Dollars (\$25,000.00).

SECTION 3. AMENDATORY Section 14, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 315, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-102), is amended to read as follows:

Section 2-102. A. A brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer and cider on the licensed premises; and

2. To sell beer and cider in this state to holders of beer distributor licenses and to sell beer and cider out of this state to qualified persons.

B. A small brewer license shall authorize the holder thereof:

1. To manufacture, bottle, package and store beer produced by the licensee on licensed premises;

2. To sell beer in this state to holders of beer distributor licenses and retail licenses or to sell beer out of this state to qualified persons;

3. To serve free samples of beer produced by the licensee to visitors twenty-one (21) years of age or older;

4. To sell beer produced by the licensee for either on-premises or off-premises consumption to consumers on the brewery premises, or on premises located contiguous thereto;

5. To sell beer at public events such as trade shows or festivals;

6. To purchase wine in retail containers from the holder of a wholesaler license or as specifically provided by law; and

7. To sell, offer for sale and possess wine for on-premises consumption.

C. Nothing in this act shall prohibit the holder of a small brewer license from also holding or owning an interest in the holder of a brewpub license.

D. For purposes of this section, no visitor may sample more than a total of twelve (12) fluid ounces of beer per day. The brewer must restrict the distribution and consumption of beer samples to an area within the licensed premises designated by the brewer. A current floor plan that includes the designated sampling area must be on file with the ABLE Commission. No visitor under twenty-one (21) years of age shall be permitted to enter this designated sampling area when samples are being distributed or consumed. Samples of beer served by a brewery under this section shall not be considered a sale of beer within the meaning of Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution or Section 1-103 of this title; however, such samples of beer shall be considered beer removed or withdrawn from the brewery for use or consumption within the meaning of Section 5-110 of this title for excise tax determination and reporting requirements. Sales and sampling may only occur between the hours of 10:00 a.m. and 2:00 a.m.

E. A small brewer self-distribution license shall authorize holders of a small brewer license to distribute beer produced only by such licensee to a holder of a retail beer license, retail spirits license, mixed beverage license, beer and wine license, caterer's license, special event license, public event license, charitable auction license or brewpub license. A small brewer shall elect whether it will distribute through a distributor or self-distribute in a subject territory; however, a small brewer may not elect to do both simultaneously in a subject territory. The election shall be made through notice to the ABLE Commission. Any changes to the election shall require immediate notification to the ABLE Commission before the change in election will take effect. A small brewer that elects to self-distribute in multiple territories shall only be required to have one small brewer self-distribution license.

F. All manufacturer's licenses held by brewers during the first calendar year beginning October 1, 2018, shall automatically convert to brewer licenses and be deemed effective as of the date of the first issuance of the manufacturer's license. Upon the first renewal of said license, the brewer will need to obtain the

appropriate brewer's license. If a brewer elects to market wine and spirits, the brewer will also be required to obtain a manufacturer's license and comply with the rules and regulations for both licenses.

SECTION 4. AMENDATORY Section 20, Chapter 366, O.S.L. 2016, as amended by Section 12, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 2-108), is amended to read as follows:

Section 2-108. A. A beer distributor license shall authorize the holder thereof:

1. To purchase and import into this state ~~beer~~ cider from persons authorized to sell the same who are the holders of manufacturer's licenses, and their agents who are the holders of manufacturer's agent licenses;

2. To purchase and import into this state beer or cider from persons authorized to sell the same who are the holders of brewer's or small brewer's licenses;

3. To purchase beer and cider from licensed ~~brewers~~ and beer distributors in this state;

~~3.~~ 4. To sell in retail containers to retailers, on-premises beer and wine, mixed beverage, caterer, special event, public event, hotel beverage and airline/railroad beverage licensees or any other licensee permitted to sell beer to consumers in this state, beer and cider which has been received, unloaded and stored at the holder's self-owned or leased and self-operated warehouses before such sale, unless otherwise permitted by this section; ~~and~~

~~4.~~ 5. To sell beer and cider in this state to beer distributors and out of this state to qualified persons, including federal instrumentalities and voluntary associations of military personnel on federal enclaves in this state over which this state has ceded jurisdiction;

6. To donate beer and cider to organizations, associations or nonprofit corporations organized for political, fraternal, charitable, religious or social purposes or to charitable events;  
and

7. To transport wine, spirits, beer and cider in vehicles owned, leased or operated by the beer distributor, a subsidiary of the beer distributor, or its agent, in addition to any nonalcoholic items. Provided, if the beer distributor transports wine and spirits, a valid wine and spirits wholesaler license must be maintained by the beer distributor or affiliated entity having common ownership with the licensed beer distributor.

B. In the event that no in-state beer distributor for a particular brewer or manufacturer is willing to deliver beer or cider to a county or counties located within the state, the ABLE Commission may grant an economic hardship exemption to an out-of-state beer distributor for a particular brewer and waive the at-rest requirement set forth in this section, upon a good-faith showing that:

1. It is economically infeasible or impractical for an in-state beer distributor for a particular brewer to deliver to the county or counties due to remoteness, or population, or both;

2. No in-state beer distributor of a particular brewer or manufacturer objects to the waiver within thirty (30) days of receiving written notice of the economic hardship application sent by the ABLE Commission; and

3. The out-of-state beer distributor agrees to pay all necessary licensing fees and remit all applicable taxes to the State of Oklahoma.

C. The economic hardship exemption provided for in subsection B of this section shall renew annually, provided that no in-state beer distributor for a particular brewer or manufacturer submits an executed distribution agreement to assume responsibility to distribute the beer in the subject county or counties at least sixty (60) days prior to the renewal date of the exemption. The in-state beer distributor who has executed a distribution agreement to assume responsibility to distribute beer in the subject territory shall compensate the out-of-state distributor the fair market value of the distribution rights of the territory as determined pursuant to Section 3-108 of this title.

D. Provided, nothing in this section shall require an Oklahoma licensed beer distributor with an Oklahoma designated territory on the effective date of this act to meet the hardship provisions in subsections B and C of this section to continue to operate as a licensed Oklahoma beer distributor.

SECTION 5. AMENDATORY Section 25, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-113), is amended to read as follows:

Section 2-113. A. 1. A caterer license may be issued to any person for the purpose of sale, delivery or distribution of alcoholic beverages incidental to the sale or distribution of food on a premises not licensed by the ABLE Commission. For purposes of this section, "incidental to the sale or distribution of food" means food sales constituting at least thirty-five percent (35%) of the caterer's total combined annual sales. A caterer license shall not be issued to a person whose main purpose is the sale of alcoholic beverages.

2. A caterer license may only be issued to those persons that prepare, sell and distribute food for consumption either on licensed or unlicensed premises. In order to renew a caterer license, annual food sales must constitute at least thirty-five percent (35%) of the caterer's total combined sales based on the most recent calendar year. A caterer shall not be required to prepare, sell and distribute food at every catered event as long as the caterer satisfies the requirement set forth in this section.

3. Each caterer shall submit an annual sales report containing revenue attributable to alcoholic beverages, food and all other revenues attributable to the catering service. The annual sales report must be submitted thirty (30) days prior to expiration of the caterer license on forms prescribed by the ABLE Commission. The caterer license may not be renewed if the caterer fails to provide complete or sufficient financial data.

4. Each caterer shall submit a monthly event report containing information on all events scheduled for the subsequent month. If an event is scheduled after the first day of the month for an event to occur in the same month, then the caterer shall report that event within twenty-four (24) hours of scheduling the event or within

twenty-four (24) hours prior to the event, whichever occurs first. The monthly event report shall be submitted on the first day of each month.

5. All reports shall be submitted electronically on forms prescribed by the ABLE Commission. Provided, if the caterer does not have access to the Internet, then monthly reports must be submitted by facsimile to the ABLE Commission's office in Oklahoma City, in which case the caterer must retain a copy of the facsimile confirmation sheet for at least twelve (12) months.

6. Any caterer who fails to submit a monthly report shall have the caterer license automatically suspended until such time that the caterer has fully complied with all reporting requirements. Any caterer whose annual food sales do not exceed thirty-five percent (35%) of his or her total annual combined sales shall not have the caterer's license renewed.

B. The ABLE Commission shall promulgate rules governing the application for and the issuance of caterer licenses.

C. The restrictions and rules which apply to the sale of mixed beverages on the premises of a mixed beverage licensee also apply to the sale under the authority of a caterer license. Any act which if done on the premises of a mixed beverage licensee would be a ground for revocation or suspension of the mixed beverage license is a ground for revocation or suspension of a caterer license.

D. If the premises where the event being catered is held are already operating pursuant to another type of license issued by the ABLE Commission, the caterer and the other licensee shall both be responsible for the actions of the caterer and shall both be subject to penalties for violations by the caterer of the Oklahoma Alcoholic Beverage Control Act and any rules promulgated thereto.

E. A caterer licensee may not store alcoholic beverages unless the licensee has a storage license issued by the ABLE Commission. A caterer licensee selling beer and cider to consumers shall only purchase such beer and cider from the distributor or wholesaler within the county in which the licensee will be selling the beer and cider to consumers.



F. A caterer may provide alcoholic beverage sales on the premises of a person currently applying for a mixed beverage license, provided the following terms have been satisfied:

1. The caterer shall take reasonable steps to ensure that the mixed beverage applicant uses only licensed employees to perform licensable activities while using the caterer's license. The caterer shall use his or her best efforts to attempt to have a licensed employee on-site supervising the sale of such caterer's alcoholic beverages at all times, but the caterer shall not be disciplined for failing to have a licensed employee on-site. The caterer expressly acknowledges that he or she is liable for all violations of the Oklahoma Alcoholic Beverage Control Act and rules of the ABLE Commission that are committed by the mixed beverage applicant and its employees during this period;

2. The caterer and mixed beverage applicant must submit to the ABLE Commission a written agreement setting forth all the terms of the catering agreement at least twenty-four (24) hours prior to the commencement of the catered event; and

3. The caterer may not provide alcoholic beverage sales on the unlicensed premises of the mixed beverage applicant for more than sixty (60) days, or after the applicant's license has been denied, whichever occurs first.

G. A caterer may provide alcoholic beverage services for temporary public events which have been licensed and approved by the ABLE Commission.

H. A caterer may provide alcoholic beverage services for a mixed beverage licensee which holds a live performing arts presentation and is open to the public not more than one hundred twenty (120) days per year.

SECTION 6. AMENDATORY Section 32, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-120), is amended to read as follows:

Section 2-120. A wholesaler's agent license shall authorize the holder thereof:

1. To represent only the holders of licenses within this state, other than retailers, authorized to sell ~~alcoholic beverages~~ wine and spirits to ~~retail dealers~~ licensed retailers in Oklahoma; and

2. To solicit and to take orders for the purchase of ~~alcoholic beverages~~ wine and spirits from retailers including licensees authorized to sell ~~alcoholic beverages by the individual drink for on-premises consumption~~ wine and spirits in Oklahoma.

Such license shall be issued only to agents and employees of the holder of a license under the Oklahoma Alcoholic Beverage Control Act, but no such license shall be required of an employee making sales of ~~alcoholic beverages~~ wine and spirits on licensed premises of the employee's principal. No applicant for a wholesaler's agent license shall also hold a manufacturer's agent license.

SECTION 7. AMENDATORY Section 47, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-135), is amended to read as follows:

Section 2-135. A. All ~~out-of-state~~ distillers, winemakers, ~~brewers and spirits~~ manufacturers, importers, brokers and others ~~who seeking to sell alcoholic beverages to~~ wine and spirits wholesalers and beer distributors in Oklahoma, regardless of whether such sales are consummated within or without the state, must either obtain a manufacturer's license or contract with a person that maintains a nonresident seller license in order to sell ~~alcoholic beverages~~ wine and spirits intended for consumption within the State of Oklahoma.

A manufacturer's license or nonresident seller license shall authorize the holder thereof to solicit and take orders for ~~alcoholic beverages~~ wine and spirits from the holders of licenses authorized to import the same into this state, and to ship or deliver, or cause to be shipped or delivered, ~~alcoholic beverages~~ wine and spirits into Oklahoma pursuant to such sales.

B. ~~A brewer not licensed in this state selling beer to a nonresident seller shall have a written distribution sales agreement with the nonresident seller. Such agreement shall be subject to inspection by the ABLE Commission.~~

~~C.~~ The ABLE Commission may, subject to the provisions of the Oklahoma Alcoholic Beverage Control Act requiring notice and hearing in the case of sanctions against holders of licenses, suspend or revoke a brewer's license, manufacturer's license or nonresident seller license for any violation of the Oklahoma Alcoholic Beverage Control Act by the holder thereof.

~~D.~~ C. No licensee in this state authorized to import alcoholic beverages into this state shall purchase or receive any alcoholic beverages from without this state from any person not holding a valid and existing brewer, small brewer, manufacturer's license or nonresident seller license. Every manufacturer's license or nonresident seller license shall expire on the June 30 following its issuance or renewal, and shall be eligible for subsequent renewal terms of one (1) year beginning on the July 1 following each expiration. License fees for a new or initial manufacturer's license or nonresident seller license applied for after July 1 may be prorated through the following June 30 on a quarterly basis.

~~E.~~ D. The holder of a manufacturer's license or nonresident seller license shall, promptly upon consignment of any ~~alcoholic beverages~~ wine and spirits to an importer in Oklahoma, forward to the ABLE Commission a true copy of the invoice, bill of lading or other document as the ABLE Commission may by rule prescribe, showing the details of such shipment.

~~F.~~ E. Any person, not otherwise a dealer in alcoholic beverages, coming into possession of any alcoholic beverages as security for or in payment of a debt, or as an insurer or its transferee or assignee for the salvage or liquidation of an insured casualty or damage or loss, or as an executor, administrator, trustee or other fiduciary, may sell the beverages in one lot or parcel to a duly licensed wholesaler or beer distributor at an agreed-upon price without regard to current posted prices. However, immediately after taking possession of the alcoholic beverages, the person shall register with the Director and furnish a detailed list of the alcoholic beverages and post with the Director a bond in such amount as the Director deems sufficient to protect the state from any taxes due on the alcoholic beverages. The person shall pay to the Director a registration fee of Fifty Dollars (\$50.00), which fee shall permit the sale of only the alcoholic beverages detailed in the registration request. A wholesaler or beer distributor

receiving a lot or parcel of alcoholic beverages pursuant to this subsection may sell it in one lot or parcel or more than one lot or parcel to a licensed package store or mixed beverage licensee or more than one licensed package store or mixed beverage licensee at an agreed-upon price without regard to current posted prices; provided, the total of the lots sold by the wholesaler or beer distributor shall not exceed four (4) lots.

SECTION 8. AMENDATORY Section 48, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 2-136), is amended to read as follows:

Section 2-136. A manufacturer's agent license shall authorize the holder thereof to represent only the holders of a manufacturer's license or nonresident seller license and to solicit and take orders for the sale of wine and spirits for the purpose of resale. No such license shall be issued to any person until it shall have been shown to the satisfaction of the ABLE Commission that the applicant has been duly authorized to act as the agent of the principal he or she proposes to represent, and that the principal or principals he or she proposes to represent has been duly authorized to do business in the State of Oklahoma, and has appointed a service agent in this state. No applicant for a manufacturer's agent license shall also hold an agent license. It shall be unlawful for any person other than the holder of a manufacturer's agent license or an agent license to solicit or take orders in the state from a wine and spirits wholesaler ~~or beer distributor~~.

SECTION 9. AMENDATORY Section 58, Chapter 366, O.S.L. 2016, as amended by Section 4, Chapter 312, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-146), is amended to read as follows:

Section 2-146. A. The ABLE Commission shall refuse to issue a wine and spirits wholesaler, beer distributor, retail spirits, retail wine or retail beer license, either on an original application or a renewal application, if it has reasonable grounds to believe and finds any of the following to be true:

1. Except in the case of a beer distributor, that the applicant is not a citizen of the United States or is not a qualified elector in this state, or has not been a continuous resident of this state

for the five (5) years next preceding the application for the license;

2. That the applicant is under twenty-one (21) years of age;

3. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a felony;

4. That the applicant or any partner, or spouse of the applicant or any partner, has been convicted of a violation of any state or federal law relating to alcoholic beverages, has forfeited a bond while any charge of such violation was pending, nor may any license be granted for any purpose under the Oklahoma Alcoholic Beverage Control Act to an Oklahoma resident, who has held or whose spouse has held a Federal Liquor Stamp in Oklahoma before the adoption of Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution unless the Liquor Stamp was granted for supplying alcoholic beverages to a federal military installation, or was granted under the Oklahoma Alcoholic Beverage Control Act;

5. That the applicant or any partner has, within twelve (12) months next preceding the date of the application, violated any provision of the Oklahoma Alcoholic Beverage Control Act or rule of the ABLE Commission promulgated pursuant hereto. Provided, however, that if the ABLE Commission has, during such twelve-month period, suspended any license sought to be renewed, such renewal application may be approved if the term of the suspension has been completed and the applicant has complied with any special conditions imposed in connection with the suspension;

6. That the applicant is not of good moral character, or that the applicant is in the habit of using alcoholic beverages to excess, or is mentally incapacitated. Provided, that the record in any municipal court showing a conviction of violation of any municipal ordinances or state statutes involving moral character or public nuisance obtained after passage and approval of the Oklahoma Alcoholic Beverage Control Act shall be received in evidence by the ABLE Commission;

7. That the applicant does not own or have a written lease for the premises for which a license is sought;

8. That the applicant, within twelve (12) months next preceding the date of application, has been the holder of a license revoked for cause;

9. That the applicant is not the real party in interest, or intends to carry on the business authorized by the license as the agent of another;

10. That the applicant, in the case of an application for renewal of any license, would not be eligible for such license on a first application;

11. That the applicant is a person who appoints or is a law enforcement official or is an employee of the ABLE Commission;

12. That the proposed location of the licensed premises would violate a valid municipal nondiscriminatory zoning ordinance;

13. That, in the case of an application for a wine and spirits wholesaler license or beer distributor license, any brewer or manufacturer, including an officer, director or principal stockholder thereof or any partner, has any financial interest in the business to be conducted under the license, unless otherwise permitted by law;

14. That the issuance of the license applied for would result in a violation of any provision of the Oklahoma Alcoholic Beverage Control Act;

15. That, in the case of an application for a wine and spirits wholesaler or beer distributor license, the applicant or any partner, or spouse of the applicant or any partner, is the holder or partner of the holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than an agent or employee license for employment by the applicant, or a storage license, bonded warehouse license, carrier license or private carrier license; provided, nothing shall prohibit a wine and spirits wholesaler, who is otherwise qualified, from maintaining beer distributor licenses in the state, nor a beer distributor, who is otherwise qualified, from maintaining a wine and spirits wholesaler license in the state;

16. That, in the case of an application for a retail spirits, retail wine or retail beer license, the applicant or any partner is the holder or partner of the holder, or employee of such holder of any other class of license issued under the provisions of the Oklahoma Alcoholic Beverage Control Act, other than a storage license or an employee license for the proposed licensed premises of the applicant, provided, nothing in this title shall prohibit an applicant for a retail wine and/or retail beer license from maintaining a separate mixed beverage, caterer, mixed beverage/caterer combination license, and/or an on-premise beer and wine license, if the retail wine and/or retail beer license is not situated within or adjacent to the same physical space wherein the on-premises license is maintained; or

17. That the applicant or any partner, spouse, employee or other person affiliated with the applicant is not in compliance with the tax laws of this state as required in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution.

B. The provisions of this section shall not operate to prohibit the issuance of a beer distributor license to a corporation or partnership or limited liability company.

SECTION 10. AMENDATORY Section 60, Chapter 366, O.S.L. 2016, as amended by Section 1, Chapter 213, O.S.L. 2018 (37A O.S. Supp. 2018, Section 2-148), is amended to read as follows:

Section 2-148. A. Any license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act by the ABLE Commission, after due notice and hearing, may be revoked or suspended if the ABLE Commission finds or has grounds to believe that the licensee has:

1. Violated any rule promulgated by the ABLE Commission;
2. Procured a license through fraud, or misrepresentation, or concealment of a material fact;
3. Made any false representation or statement to the ABLE Commission or the Oklahoma Tax Commission in order to prevent or induce action by the ABLE Commission or the Tax Commission;

4. Maintained an unsanitary establishment or has supplied impure or otherwise deleterious beverages or food;

5. Stored, possessed, mixed or served on the premises of a bottle club any alcoholic beverage upon which the tax levied by Section 5-101 of this title has not been paid as provided for in the Oklahoma Alcoholic Beverage Control Act, in a county of this state where the sale of alcoholic beverages by the individual drink for on-premises consumption has not been authorized;

6. Misrepresented to a customer or the public any alcoholic beverage sold by the licensee;

7. Had any permit or license issued by the Tax Commission and required by the Oklahoma Alcoholic Beverage Control Act, suspended or revoked by the Tax Commission; or

8. Is not in compliance with the tax laws of this state as required in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution.

B. The ABLE Commission may revoke or suspend the license of any mixed beverage, caterer or bottle club licensee if the ABLE Commission finds or has grounds to believe that such licensee:

1. Has acted as an agent of a manufacturer, brewer or wholesaler of alcoholic beverages;

2. Is a manufacturer, brewer or wholesaler of alcoholic beverages;

3. Has borrowed money or property or accepted gratuities or rebates from a manufacturer, brewer or wholesaler of alcoholic beverages;

4. Has obtained the use of equipment from any manufacturer, brewer or wholesaler of alcoholic beverages or any agent thereof;

5. Has violated any of the provisions of the Oklahoma Alcoholic Beverage Control Act for which mandatory revocation or suspension is not required;



6. Has been convicted within the past twenty-five (25) years, of a violation of any state or federal law relating to alcoholic beverage for which mandatory revocation or suspension is not required; or

7. Is not in compliance with the tax laws of this state as required in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution.

C. The ABLE Commission may revoke or suspend the license of any retail, mixed beverage, caterer or bottle club licensee if the ABLE Commission finds or has grounds to believe that such licensee has borrowed money or property or accepted gratuities, discounts, rebates, free goods, allowances or other inducements from a wine and spirits wholesaler or beer distributor.

D. The ABLE Commission shall have the authority to revoke the license of any licensee if the ABLE Commission finds:

1. That the licensee knowingly sold alcoholic beverages or allowed such beverages to be sold, delivered or furnished to any person under the age of twenty-one (21) years or to any person visibly intoxicated or adjudged insane or mentally deficient;

2. That the licensee, any general or limited partner of the licensee, or in the case of a corporation, an officer or director of the corporation, has been convicted of a felony or is not in compliance with the tax laws of this state as required in Article ~~XXVIII~~ XXVIII-A of the Oklahoma Constitution. Provided, an employee license may be issued and held by a person who has been convicted of a felony if such conviction was not for an offense specified in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes or an offense under the provisions of this title, and if such conviction was more than five (5) years prior to the issuance of the license;

3. That, in the case of a wine and spirits wholesaler, beer distributor, retail spirits, retail wine or retail beer licensee, the holder of the license or any member of a general or limited partnership which is the holder of such a license, has been convicted of a prohibitory law relating to the sale, manufacture or transportation of alcoholic beverages which constitutes a felony.

E. If the ABLE Commission shall find by a preponderance of the evidence as in civil cases that a licensee has knowingly sold any alcoholic beverage to any person under the age of twenty-one (21) years, after a public hearing, the ABLE Commission shall revoke such license and no discretion as to the revocation shall be exercised by the ABLE Commission.

F. The ABLE Commission shall have the authority to promulgate rules to establish a penalty schedule for violations of any provision of the Oklahoma Alcoholic Beverage Control Act or any rule of the ABLE Commission. The schedule shall provide for suspension or revocation of any license for major and minor violations as determined by the ABLE Commission. Penalties shall be increasingly severe with each violation by a licensee.

Provided, that for a fourth major violation by a licensee within a twenty-four-month period, the penalty shall be mandatory revocation of license. The twenty-four-month period shall be calculated from the date of the most recent violation as set forth in an order signed by the Director or the designee of the Director.

G. The ABLE Commission or the Tax Commission may impose a monetary penalty in lieu of or in addition to suspension of a license. The amount of the fine for a major violation shall be computed by multiplying the proposed number of days of the suspension period by One Hundred Dollars (\$100.00). The amount of the fine for a minor violation shall be computed by multiplying the number of days of the proposed suspension period by Fifty Dollars (\$50.00).

H. The failure of any licensee to pay a fine or serve a suspension imposed by the ABLE Commission or the Tax Commission shall result in the revocation of the license of the licensee.

I. If the ABLE Commission or the Tax Commission finds that public health, safety or welfare require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceeding for revocation or other action, pursuant to the provisions of Section 314 of Title 75 of the Oklahoma Statutes.

SECTION 11. AMENDATORY Section 71, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-101), is amended to read as follows:

Section 3-101. A. No person shall manufacture, rectify, sell, possess, store, import into or export from this state, transport or deliver any alcoholic beverage except as specifically provided in the Oklahoma Alcoholic Beverage Control Act. Provided, that nothing herein shall prevent the possession and transportation of alcoholic beverages for the personal use of the possessor and his or her family and guests, so long as the Oklahoma excise tax has been paid thereon, except for beer. Provided, further, that nothing herein shall prevent a person from making beer, cider or wine, by simple fermentation and without distillation for personal use if the maker of such beverages has first applied for and possesses a valid personal use permit issued by the ABLE Commission and the total volume of beer, cider or wine produced in any given calendar year is less than two hundred (200) gallons. No beverages made pursuant to a personal use permit shall be sold or offered for sale.

B. 1. Any duly licensed physician or dentist may possess and use alcoholic beverages in the strict practice of the profession and any hospital or other institution caring for sick or diseased persons may possess and use alcoholic beverages for the treatment of bona fide patients of such hospital or institution. Any drugstore employing a licensed pharmacist may possess and use alcoholic beverages in the preparation of prescriptions of duly licensed physicians.

2. The possession, transportation and dispensation of wine by any authorized representative of any church for the conducting of a bona fide rite or religious ceremony conducted by such church shall not be prohibited by the Oklahoma Alcoholic Beverage Control Act; nor shall such act prevent the sale, shipping or delivery of sacramental wine by any person holding a sacramental wine supplier license issued pursuant to the Oklahoma Alcoholic Beverage Control Act to any religious corporation or society of this state holding a valid exemption from taxation issued pursuant to Section 501(a) of the Internal Revenue Code, 1954, and listed as an exempt organization in Section 501(c) (3) of the Internal Revenue Code, 1954, of the United States, as amended.

3. Provided further, that nothing in the Oklahoma Alcoholic Beverage Control Act shall prevent the possession, transportation and sale of alcoholic beverages within military reservations and in accordance with the laws and rules governing such military reservations, provided that the Oklahoma excise tax has been paid on such beverages.

C. 1. Except as otherwise authorized by law, it is unlawful for any brewer, manufacturer, wine and spirits wholesaler, beer distributor or retailer of alcoholic beverages, located and doing business from outside this state, to make retail sales of alcoholic beverages to purchasers located in this state or to ship alcoholic beverages sold at retail to persons located in this state. Any person who engages in the sale or shipping of alcoholic beverages in violation of the provisions of this subsection, upon conviction, shall be guilty of a felony punishable by imprisonment for not more than five (5) years, if the sale or delivery is made to a person under twenty-one (21) years of age, or a misdemeanor, if the sale or delivery is made to a person twenty-one (21) years of age or older.

2. The fine for a violation of this subsection shall be not more than Five Thousand Dollars (\$5,000.00).

3. In addition, if the person holds a license issued by the ABLE Commission, the license shall be revoked pursuant to Section 60 of this act.

D. All brewers, importers, brokers and others who sell beer or cider to licensed beer distributors in Oklahoma or manufacturers, importers, brokers and others who sell cider to licensed beer distributors in Oklahoma, regardless of whether such sales are consummated within or without the state, must obtain a license, as the case may be, in order to sell beer or cider intended for consumption within the State of Oklahoma.

SECTION 12. AMENDATORY Section 72, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-102), is amended to read as follows:

Section 3-102. The ABLE Commission is authorized to promulgate such rules with respect to packaging, marking, branding and labeling

of alcoholic beverages sold or possessed for sale within this state, including such rules:

1. As will prohibit deception of the consumer with respect to such products or the quantity thereof and as will prohibit, irrespective of falsity, such statement relating to age, manufacturing processes, analyses, guarantees, and scientific or irrelevant matter as the ABLE Commission finds likely to mislead or confuse the consumer;

2. As will provide the consumer with adequate information as to the identity and quality of the products, the net contents of the package, and the manufacturer, brewer or importer of the product; and

3. As will prohibit statements on the label that are false, misleading, obscene or indecent.

The ABLE Commission may promulgate, in whole or in part, or with such modification as it deems desirable, rules of the federal government relating to labeling of distilled spirits promulgated under the Federal Alcohol Administration Act (27 U.S.C. 205).

SECTION 13. AMENDATORY Section 77, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-107), is amended to read as follows:

Section 3-107. A. In order to provide for regulation of the sales and distribution of beer in this state by the ABLE Commission, this Legislature hereby declares it is necessary to implement the section.

B. Statutory regulation of the sales and distribution of designated brands in designated territories by distributors shall include but not be limited to:

1. A requirement for written distributor agreements between a ~~manufacturer~~ brewer and distributor designating a specific territory within which the distributor may sell the designated brands of the ~~manufacturer~~ brewer;

2. Provisions for prohibited acts applicable to the distributor and ~~manufacturer~~ brewer; and

3. Provisions for penalties for violations.

SECTION 14. AMENDATORY Section 78, Chapter 366, O.S.L. 2016, as last amended by Section 1, Chapter 209, O.S.L. 2018 (37A O.S. Supp. 2018, Section 3-108), is amended to read as follows:

Section 3-108. A. The provisions of this section shall be in effect except as otherwise provided in Article ~~XXVIII~~A XXVIII-A of the Oklahoma Constitution.

B. Subject to the provisions of subsection D of this section, every licensed brewer or cider manufacturer authorized to sell its beer or cider in this state shall:

1. Enter into a distributor agreement with a licensed distributor, as defined herein, to sell the designated brands, including brand extensions, of the brewer or cider manufacturer. The agreement shall designate the sales territory of that licensed distributor and the designated brands to be sold by the licensed distributor. All such distributor agreements shall specifically authorize this sale of the designated brands by a licensed distributor within that sales territory. All such distributor agreements shall further provide that the licensed brewer or cider manufacturer who desires to sell a brand extension of a low-point beer in Oklahoma must assign the low-point beer brand extension to the licensed distributor to whom the licensed brewer or cider manufacturer granted the exclusive sales territory to the low-point beer brand from which the brand extension resulted;

2. Sell its registered and approved designated brands only to a licensed distributor with whom that brewer or cider manufacturer has a distributor agreement designating the sales territory of the licensed distributor and the designated brands to be sold by the licensed distributor;

3. Authorize only one licensed distributor for each designated sales territory. Such licensed distributor shall be the only licensed distributor for the designated brands of the authorizing

brewer or cider manufacturer within that designated sales territory;  
and

4. Designate who is responsible for the distribution of its designated brands.

C. Subject to the provisions of subsection D of this section, any and all licensed distributors possessing the rights to distribute a low-point beer brand in a specific territory prior to the introduction of that low-point beer's correlating beer brand extension in that specific territory shall retain the right to distribute the low-point beer from which the brand extension resulted.

D. 1. No later than August 2, 2018, a brewer shall assign the exclusive right to distribute a beer brand, including brand extensions thereof, to the low-point beer distributor who was, prior to October 1, 2018, assigned the exclusive distribution rights to the low-point beer from which the brand extension arose without charge or payment of compensation, unless the low-point beer distributor is, on October 1, 2018, a brewer of beer or low-point beer and has therefore been distributing low-point beer pursuant to a license to so distribute, subject to the provisions of subsection E of this section. This subsection shall not apply to a small brewer as defined in Section 1-103 of this title.

2. With respect to brand extensions which arise after October 1, 2018, the brewer or cider manufacturer shall assign the exclusive right to distribute the brand extension to the distributor who has been assigned the exclusive distribution rights to the beer or cider from which the brand extension arose, without charge or payment of compensation.

3. With respect to a brand of beer or cider which was, prior to April 15, 2017, distributed in this state only as strong beer or cider pursuant to the Oklahoma Alcoholic Beverage Control Act then in effect, if a low-point version of the brand is introduced after April 15, 2017, no later than August 2, 2018, the brewer or cider manufacturer shall assign the exclusive rights to distribute the low-point version of the brand to the distributor who was, immediately prior to the introduction of the low-point version of

the brand, assigned the exclusive distribution rights to the strong version of the brand without charge or payment of compensation.

4. No later than August 2, 2018, with respect to dual strength beer, the brewer thereof shall assign the exclusive right to distribute the brands represented by the dual strength beer to either the low-point beer distributor or the nonresident seller who had theretofore been assigned the exclusive distribution rights in the territory to either version of the dual strength beer; provided, however, whichever party is selected by the brewer must compensate the party that was not selected by the brewer for the loss of the distribution rights with respect to that particular territory. Whichever party is selected shall obtain the requisite distributor license and shall be subject to the provisions of the Oklahoma Alcoholic Beverage Control Act.

5. Compensation for the purposes of this provision shall be the fair market value of the party losing its distribution rights with respect to the beer within that specific territory. Fair market value shall be determined as set forth in Section 3-111 of this title and shall take into account all aspects of brand valuation, including but not limited to:

- a. the diminished value of the distribution of one version of beer as a consequence of the subsequent introduction of the other version,
- b. the expected annual sales and earnings of the distributor agreement,
- c. the length of time the existing distributor held in the distribution sales agreement, and
- d. any other relevant items of value, such as goodwill and going concern.

E. If a brewer, whether directly or through an affiliate, maintained one or more licenses to distribute low-point beer in this state prior to October 1, 2018, then up to two of the brewer's low-point beer distribution licenses shall automatically convert to beer distribution licenses on October 1, 2018, and such brewer shall be permitted to continue to distribute beer in two territories within



which it currently distributes without the appointment of a distributor for such period of time as determined by the Legislature and consistent with the Constitution of the State of Oklahoma; provided however, it shall not be permitted to distribute beer outside of the territory unless it enters into a distributor agreement with an independent licensed distributor as provided in paragraph 1 of subsection B of this section. This section shall not apply to small brewers that have elected to self-distribute.

F. If, on October 1, 2018, a licensed distributor possesses inventory of a brand that it is no longer authorized to distribute within this state, such inventory shall be sold to a licensed distributor authorized to distribute such brand, at a price not to exceed the total of the actual purchase price of the selling distributor plus the cost of inbound and outbound shipping to the purchasing distributor. The provisions of this paragraph shall not apply to inventory purchased on or after September 15, 2018.

SECTION 15. AMENDATORY Section 80, Chapter 366, O.S.L. 2016, as amended by Section 15, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 3-110), is amended to read as follows:

Section 3-110. A. A licensed distributor designated as the licensed distributor for a beer brand within a designated sales territory shall present that beer brand for sale to all on-premise licensees on the same price basis and without discrimination and to all off-premise licensees on the same price basis within a particular county and without discrimination. A licensed distributor shall not sell, supply or deliver, either directly or indirectly through a third party, a beer brand to a licensed retailer outside of the designated sales territory of the designated distributor nor to any person the licensed distributor has reason to believe will sell or supply any quantity of the beer brand to any retail location outside of the designated sales territory of the designated distributor.

B. All beer shall only be transported by a marked conveyance owned or leased by the licensed distributor and operated by the licensed distributor or an employee of the distributor for the products of a licensed brewer or cider manufacturer within the designated sales territory to the address and location of a licensed retailer within that designated sales territory.

C. Any beer sold by the licensed distributor shall not be delivered to, received by or stored at any place other than the address and location of the licensed retailer for which state and local retailer licenses or permits have been issued, except as otherwise provided by law.

D. With the approval of the licensed brewer or cider manufacturer, a licensed distributor may sell the designated brands to a licensed retailer located in a designated sales territory of another licensed distributor if that licensed distributor is temporarily unable for any reason to provide the designated brands of the licensed brewer or cider manufacturer within its designated sales territory.

E. All beer purchased by a licensed distributor for resale in this state shall physically come into the possession of the licensed distributor and be unloaded in and distributed from the licensed warehouses of the licensed distributor located in this state prior to being resold in this state.

F. For temporary events, beer distributors shall be permitted to park full trailers and Waymatics in the supplier area of the events for the purposes of pulling and selling product to special event, public event, caterer, on-premises beer and wine and mixed beverage licensees. A temporary event shall not exceed fourteen (14) consecutive calendar days in duration. The trailer/Waymatic shall be deemed an extension of the licensed premises of the beer distributor and no separate storage license shall be necessary. The following shall apply to beer and cider transactions during temporary events:

1. Beer distributors shall be permitted to deliver the beer or cider from the trailer to the selling locations of the licensee(s) within the event;

2. Beer distributors may not sell directly to consumers;

3. Each delivery of beer or cider shall be accompanied by an invoice giving the date of purchase and the quantities delivered;

4. At least every fourth day of the event, the distributor shall generate and deliver a summary invoice. Within three days after the end of the event, the beer distributor shall reconcile the invoices with the deliveries made during the event and generate and deliver a final invoice to be paid immediately upon delivery;

5. For temporary events lasting less than five (5) days and for university game days, the beer distributor's invoice shall be generated and submitted to the purchasing licensee the first business day following the event. The licensee shall pay the invoice upon receipt; and

6. For all temporary events, the beer distributor has the option of requiring the purchasing licensee to deliver a check for the full amount of the product contained within the trailer(s) at the beginning of the event to be held by the beer distributor pending completion of the event and reconciliation and payment. Such a requirement shall not be deemed a consignment sale, a credit transaction, or a violation of any rules or law.

The provisions of this subsection shall apply to small brewer self-distributors and brewpub self-distributors.

SECTION 16. AMENDATORY Section 82, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-112), is amended to read as follows:

Section 3-112. The operation and maintenance of a brewpub is subject to the following conditions:

1. No person shall be permitted to own or operate a brewpub without first paying the required fees set forth in Section 13 of this act and obtaining a proper brewpub license from the ABLE Commission in the manner provided in the Oklahoma Alcoholic Beverage Control Act;

2. Each brewpub licensee shall comply with all other applicable state and local license and permit requirements; and

3. In order to qualify for a brewpub license, a brewer or manufacturer must meet the definition of a small brewer.

SECTION 17. AMENDATORY Section 85, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-115), is amended to read as follows:

Section 3-115. A. To assure and control quality, a beer distributor or a holder of a small brewer self-distribution license or brewpub self-distribution license, at the time of a regular delivery, may withdraw with the permission of the retailer, a quantity of beer or cider in undamaged original packaging from the retailer's stock if:

1. The beer distributor or holder of a small brewer self-distribution license or brewpub self-distribution license replaces the stock with beer or cider of ~~identical~~, equivalent value brands, quantities, packaging and alcohol by volume as the beer or cider withdrawn; or

2. The stock is withdrawn before the date, or immediately after the date, considered by the brewer of the product to be the date the product becomes inappropriate for sale to a consumer.

B. The provisions of this section shall not apply to beer or cider that:

1. Has suffered damage at the retail licensee's location, regardless of the date upon which the product becomes inappropriate for sale to a consumer. Beer distributors, small brewer self-distributors and brewpub self-distributors are prohibited from giving a refund for or replacing beer or cider that was damaged while in the possession of the retail licensee. Retail licensees are prohibited from requesting or requiring the beer distributor, small brewer self-distributor and brewpub self-distributor to remove such damaged product as a condition of continued business with the retail licensee; or

2. Has a date for recommended use that expired prior to October 1, 2018. Retail licensees and brewers are prohibited from requesting or requiring the beer distributor, small brewer self-distributor and brewpub self-distributor to remove such expired beer or cider as a condition of continued business with the retail licensee or brewer.

C. A consignment sale of beer is not authorized under this section.

SECTION 18. AMENDATORY Section 86, Chapter 366, O.S.L. 2016, as amended by Section 17, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 3-116), is amended to read as follows:

Section 3-116. A. Any manufacturer or subsidiary of a manufacturer who markets its products solely through a subsidiary or subsidiaries, a distiller, rectifier, bottler, winemaker or importer of alcoholic beverages, bottled or made in a foreign country, either within or without this state, may sell such brands or kinds of alcoholic beverages to every licensed wine and spirits wholesaler who desires to purchase the same, on the same price basis and without discrimination or inducements, and shall further be required to sell such beverages only to those persons licensed as wine and spirits wholesalers.

B. The provisions of subsection A of this section shall not apply to a brewer except as otherwise stated herein. In the event a brewer, who has entered into territorial distribution agreements with beer distributors in this state, markets wine and spirits products in this state either itself or through a subsidiary or affiliate, then such brewer, subsidiary or affiliate may elect to designate beer distributors, with whom it has entered into territorial distribution agreements, as its designated wholesalers for any wine and spirit products to be sold by the brewer, subsidiary or affiliate within said beer distributors' existing territories, provided such beer distributors must also hold a wine and spirits wholesaler license. In such event, the beer distributors shall be deemed designated wholesalers for the territory with respect to the designated products. Provided, in the event a beer distributor has not obtained a wine and spirits license, has elected not to sell wine and spirits in its respective territory or, in the brewer's commercially reasonable discretion, is not suitable to sell wine and spirits in its respective territory, then the brewer, subsidiary or affiliate may extend the territory of an existing beer distributor, with whom it has entered into a territorial distribution agreement and who holds a wine and spirits wholesaler license, for said territory. For purposes of this subsection only, the phrase "subsidiary or affiliate" shall mean any entity that the brewer controls, is controlled by, or is under

common control with, during the time that the wine and spirits brands are offered for sale in this state, and "control" shall mean ownership of more than fifty percent (50%) of the voting securities or assets of, or the ability to dictate the material operations of, another entity. If the brewer, subsidiary or affiliate sells the wine and spirits brands to a manufacturer other than one that would otherwise fall within the provisions of this subsection, then the rights provided in this subsection which relate to the wine and spirits brands shall terminate. The rights provided to beer distributors pursuant to Section 3-111 of this title shall not be extended to apply to the wine or spirits brands distributed pursuant to this subsection.

C. No manufacturer shall require a wine and spirits wholesaler ~~or beer distributor~~ to purchase any alcoholic beverages or any goods, wares or merchandise as a condition to the wine and spirits wholesaler ~~or beer distributor~~ obtaining or being entitled to purchase any alcoholic beverages.

Violation of this section shall be a misdemeanor. Conviction hereunder shall automatically revoke the violator's license.

D. In the event a manufacturer or nonresident seller has not designated a ~~wine and spirits wholesaler~~ designated wholesaler to sell its ~~product~~ products in the state, the ~~product~~ nondesignated products shall be posted in accordance with the following:

1. On the first business day of each month, the manufacturer shall post with the ABLE Commission the price of all wine and spirits it proposes to offer for sale to licensed wine and spirit wholesalers in this state. All prices shall become effective on the first business day of the following month and shall remain in effect and unchanged for a period of not less than one (1) month. The posting shall be submitted on a form approved by the ABLE Commission and shall identify the brand, size, alcohol content and price of each item intended to be offered for sale. No change or modification of the posted price shall be permitted except upon written permission from the ABLE Commission based on good cause shown;

2. When a new item is registered, or an old item is discontinued, or any change is made by a manufacturer or nonresident

seller as to price, age, proof, label or type of bottle of any item offered for sale in this state, such new item, discontinued item or change in price, age, proof, label or type of bottle of any item shall be listed separately on the cover page of the price schedule and, in the case of prices changed, shall reflect both the old and the new price of the item changed. All new items and changes as to age, proof, label or type of bottle in which any item is offered for sale shall first be submitted in writing to the ABLE Commission for approval under such requirements as it may deem proper. Approval or disapproval of price changes shall not be required if filed in conformity with the provisions of this subsection.

- a. In addition to the foregoing requirements, the manufacturer shall, at the same time, on regular forms provided by the ABLE Commission, re-register all items of alcoholic beverage which the manufacturer had registered and offered for sale in this state during the previous price period.
- b. A short form of price posting may be permitted by the ABLE Commission for any price period in which no new item is offered or old item discontinued, or change is made in the price, age, proof, label or type of bottle of any item offered by any manufacturer. Such short form shall contain only such statements as the Director may require or permit;

3. The brand name, size, proof and type of alcoholic beverages must be shown on each container sold in this state;

4. No brand of alcoholic beverage shall be listed on a price list or posting in more than one place, or offered for sale by more than one method, or at more than one price, except as provided hereafter:

- a. a manufacturer who has posted F.O.B. prices from a foreign shipping point shall also list the same item(s) at an F.O.B. point within the continental United States. Only one United States F.O.B. point shall be permitted, and

- b. a manufacturer may list on their price list or posting an item of specific size that may be packaged in more than one type or design container, provided that the containers being offered have been approved by the ABLE Commission;

5. The manufacturer shall sell to the wine and spirits wholesalers all items of wine and spirits at the current posted price in effect on the date of the shipment as shown on the manifest, bill of lading or invoice;

6. A full and correct copy of each said price registration shall be transmitted to wine and spirits wholesalers on the same day such prices are filed with or mailed to the ABLE Commission. Proof of such mailing or delivery shall be furnished the ABLE Commission by the manufacturer with the price registration or upon request;

7. The sale, or offer to sell, of any item of alcoholic beverage by a manufacturer to a wine and spirits wholesaler at a price not in compliance with the price posted with the ABLE Commission may be deemed a violation; and

8. This subsection shall not apply to a manufacturer that has designated a wine and spirits wholesaler to sell its product in the state or a brewer who has appointed a beer distributor as a designated wholesaler pursuant to subsection B of Section 3-116 of this title, with respect to designated products.

SECTION 19. AMENDATORY Section 18, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 3-116.1), is amended to read as follows:

Section 3-116.1 A. In the event a manufacturer has not designated a wine and spirits wholesaler, or a brewer has not appointed a beer distributor as a designated wholesaler pursuant to subsection B of Section 3-116 of this title, to sell its product in the state, then every wine and spirits wholesaler that sells that product shall comply with the following posting requirements:

1. All wine and spirits wholesalers who choose to sell the ~~nondesignated product~~ Nondesignated Product shall file with the ABLE Commission on the fifteenth day of each posting month a proposed



category percentage markup. A percentage markup shall be defined as a percentage of increase or decrease in relation to the wholesaler laid-in-cost for all items in each category. The percentage does not have to be the same for all categories, but in the original posting the percentage shall be the same for all items in the same category;

2. The proposed markups shall be computed by percentage in the four categories: Spirits, Cordials and Specialties, Wines-Domestic and Wines-Imported. In reporting to the ABLE Commission, the proposed markups shall be set forth in the following categories and order:

- a. Category 1 - Spirits: Straights, Blends, Bonds, Corn, Rye, Scotch, Canadian, Irish, Vodka, Gin, Rum, Brandy Alcohol and Tequila,
- b. Category 2 - Cordials and Specialties: Cocktails, Cordials, Domestic and Imported and Miscellaneous Specialties,
- c. Category 3 - Wines-Domestic: Vermouth American, Fortified American, Light American and Champagne American, and
- d. Category 4 - Wines-Imported: Vermouth Imported, Fortified Imported, Light French, Light German, Light Other Imported and Champagne Imported;

3. When a wine and spirits wholesaler desires to charge for expenses incurred in handling of individual bottles in fractional cases, or for transportation of their alcoholic beverage to persons licensed to purchase the same, the wine and spirits wholesaler shall on the fifteenth day of each posting month include with its proposed percentage posting the separate amounts, if any, to be charged for bottle handling and the amount of transportation, respectively, to be charged per case;

4. The proposed posting by the wine and spirits wholesaler shall list the percentage posting, and the handling and transportation cost without discrimination to all licensees

regardless of their distance from the wine and spirits wholesaler's warehouse;

5. The ABLE Commission shall immediately upon receipt of all proposed category percentage postings, prepare a summation of the proposal and disseminate an electronic copy to all wine and spirits wholesalers. The summation shall contain the proposed percentage posting for each category, including proposed transportation charges as submitted by each wine and spirits wholesaler;

6. After filing the report required by this subsection, any and all wine and spirits wholesalers shall be permitted to register on or before the twenty-fifth day of each posting month an adjusted price. The adjusted price means percentage or individual item prices reported and registered by a wine and spirits wholesaler on or before the twenty-fifth day of the posting month in response to a lower percentage reported and registered by a competitor on the fifteenth day of the month. The adjusted price shall be no lower than the lowest percentage posted on the fifteenth day of said month by any wine and spirits wholesaler;

7. The adjusted price posted by a wine and spirits wholesaler in response to the lowest percentage posted by any wine and spirits wholesaler may, but need not be, posted in terms of a percentage and, if not so stated, shall state the price at which the wine and spirits wholesaler proposes to sell each individual item or size of item which he proposes to offer for sale during the posting period. The price postings, except for unmodified percentage markups, shall describe each item by brand, size, age, type and proof. Wines and champagnes shall reflect the alcoholic contents thereof;

8. The percentage markup utilized by a wine and spirits wholesaler in calculating its adjusted prices may be at any level between its originally posted percentage markup and the lowest percentage markup originally posted by any other wine and spirits wholesaler, but may not be above its original posting or below the lowest percentage posted by any wine and spirits wholesaler. Any fraction within four (4) decimals in determining final prices of bottles shall be raised to the next higher cent;

9. Each wine and spirits wholesaler may, upon the twenty-fifth day of the posting month, adjust his transportation and handling

charges to a level no lower than that of a competitor or higher than its initial proposal on the fifteenth day of the posting month. Such bottle handling and transportation charge shall be in effect for the duration of the price posting which it accompanies. Provided, that if a licensee shall order any item in full case lots and the wine and spirits wholesaler does not have in inventory such item in full case lots, no bottle handling charge may be assessed to the licensee for the partial case;

10. All wine and spirits wholesalers shall, on the same date of filing an adjusted price posting with the ABLE Commission, transmit electronically a copy of its adjusted prices to each wine and spirits wholesaler in the state;

11. A wine and spirits wholesaler may include a minimum order charge of no less than One Dollar (\$1.00) for any order of alcoholic beverages to a retail, mixed beverage, caterer or special event licensee that does not exceed the amount that such wholesaler designates as a minimum order in his proposed price posting. The minimum charge, if it is more than One Dollar (\$1.00), and the amount of the minimum order shall be included in the price posting;

12. All price postings, as adjusted, shall become effective on the first day of the following month and remain in effect for a period of two (2) months. No other charge may be assessed by the wholesaler to the licensee except those expressly authorized by the provisions of the Oklahoma Alcoholic Beverage Control Act or the rules of the ABLE Commission;

13. A price posting on a new item not previously stocked by a wine and spirits wholesaler shall be filed with the ABLE Commission prior to offering for sale, but no such item shall be listed at a lower price than is then, or will be, in effect during the price period for which the new item is filed, and within the percentage in the proper category of said wine and spirits wholesaler. In the event of a new item posting, mailings to wine and spirits wholesalers and those licensed to purchase wine and spirits in the state, as herein required, shall be sent on the same date as the postings;

14. When a wine and spirits wholesaler discontinues an item, or does not have an item in its warehouse or on order, the item shall

be deleted from its price posting. When or if the item is restocked or replaced in the inventory of the wine and spirits wholesaler, it shall be reentered into the price postings as would a new item;

15. The sale of or the offer to sell alcoholic beverages at the prices quoted in such price posting before the same is in force and effect shall be grounds for the suspension or revocation of the wine and spirits wholesaler's license if the new price varies from the price then in effect; and

16. The provisions of this section are severable, and if any provisions of the same shall be void, the decision of the court so holding shall not affect or impair the remaining parts or provisions thereof.

B. This section shall not apply to products that have been designated by a manufacturer for distribution by a wine and spirits wholesaler or by a brewer for distribution by a beer distributor pursuant to subsection B of Section 3-116 of this title in the state.

SECTION 20. AMENDATORY Section 19, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 3-116.2), is amended to read as follows:

Section 3-116.2 A. In the event a manufacturer has designated a wine and spirits wholesaler or a brewer has designated a beer distributor pursuant to subsection B of Section 3-116 of this title to sell its product in the state, the wine and spirits wholesaler shall comply with the following posting requirements: The wine and spirits wholesaler or beer distributor appointed pursuant to subsection B of Section 3-116 of this title shall submit its line-item price posting for that product no later than the fifteenth day of each month. If the fifteenth day of the month falls on a Saturday, Sunday or a holiday then the wine and spirits wholesaler shall submit its price posting on the next business day. The price posting submitted by the wine and spirits wholesaler shall list the line-item price, handling cost, transportation cost and any other costs that may be associated with the sale or delivery of that item. All prices shall become effective on the first business day of the month following posting and shall remain in effect and unchanged in one-month increments. No change or modification of the posted price

shall be permitted except upon written permission from the ABLE Commission based on good cause shown.

B. This section shall not apply unless a product has been designated by a manufacturer for distribution by a single wine and spirits wholesaler in the state or by a brewer for distribution by a beer distributor pursuant to subsection B of Section 3-116 of this title.

SECTION 21. AMENDATORY Section 87, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-117), is amended to read as follows:

Section 3-117. A. A retailer may offer for sale and sell alcoholic beverages which are packaged or are to be packaged with nonalcoholic promotional items, if such packaging and all nonalcoholic promotional items are provided by the manufacturer or brewer or agent of the manufacturer or brewer at the expense of the manufacturer or brewer or agent of the manufacturer or brewer, regardless of where such packages are assembled.

B. The manufacturer or brewer or agent of the manufacturer or brewer may provide such packaging and any nonalcoholic promotional items to the retailer at the retailer's premises, or otherwise, and may deliver such packaging and all nonalcoholic promotional items provided by the manufacturer or brewer or agent to the retailer by means of common carrier, or otherwise, at no expense to the retailer, for the retailer to incorporate the alcoholic beverage product of the manufacturer or brewer into the manufacturer's or brewer's packaging or with such promotional items.

C. The manufacturers and brewers of alcoholic beverages, through their agents, must make access to the packaging for such alcoholic beverages with nonalcoholic promotional items available equally to retailers in this state. Such access to the promotional packaging is subject to the reasonable supplies of such packaging and subject to the terms of the manufacturer's or brewer's promotion. Such access to the manufacturer's or brewer's packaging by the retailers shall be commensurate to the needs of the retailers based on the stock of the manufacturer's or brewer's product carried by the retailer. The manufacturers and brewers shall only be required to carry reasonable supplies of such promotional packages

and shall make a good faith effort to ratably distribute such packaging or items to those retailers who desire such packaging or items.

SECTION 22. AMENDATORY Section 89, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-119), is amended to read as follows:

Section 3-119. It shall be unlawful for any manufacturer, brewer, wine and spirits wholesaler, beer distributor or person authorized to sell alcoholic beverages to a wholesaler, or any employee, officer, director, stockholder owning fifteen percent (15%) or more of the stock, any type of partner, manager, member or agent thereof, to directly or indirectly:

1. Have any financial interest in any premises upon which any alcoholic beverage is sold at retail or in any business connected with the retailing of alcoholic beverages; provided, nothing in this act shall prohibit the operation of a mixed beverage licensee, beer and wine licensee or caterer licensee by an entity which has common owners with the holder of a small brewer license or a brewpub license;

2. Lend any money or other thing of value, or to make any gift or offer any gratuity, to any package store, retail wine, retail beer, mixed beverage, beer and wine, public event or bottle club licensee or caterer;

3. Guarantee any loan or the repayment of any financial obligation of any retailer, mixed beverage, beer and wine, public event or bottle club licensee or caterer;

4. Require any wine and spirits wholesaler, beer distributor, retailer, mixed beverage, on premises beer and wine licensee, public event or caterer to purchase and dispose of any quota of alcoholic beverages, or to require any retailer to purchase any kind, type, size, container or brand of alcoholic beverages in order to obtain any other kind, type, size, container or brand of alcoholic beverages;

5. Sell to any retailer, mixed beverage, on-premises beer and wine licensee, public event or caterer any alcoholic beverage on

consignment, or upon condition, or with the privilege of return, or on any condition other than a bona fide sale; provided, the delivery in good faith, through mistake, inadvertence or oversight, of an alcoholic beverage that was not ordered by a retailer, mixed beverage licensee, on-premises beer and wine licensee, caterer, public event or special event licensee to such licensee shall not be considered a violation of this paragraph, nor shall replacement of breakage that occurred while the alcoholic beverages were in transit from the wholesaler to the licensee, or replacement of product with torn or defective labels, short-filled cases or other defects that make the product unsaleable, as long as the licensee notifies the wine and spirits wholesaler or the beer distributor of the error, breakage or defect in writing within five (5) business days after delivery of the product; or

6. Extend credit to any retailer, other than holders of Federal Liquor Stamps on United States government reservations and installations, mixed beverage, public event or on-premises beer and wine licensee or caterer, other than a state lodge located in a county which has approved the retail sale of alcoholic beverages by the individual drink for on-premises consumption. The acceptance of a postdated check or draft or the failure to deposit for collection a current check or draft by the second banking day after receipt shall be deemed an extension of credit. Violation of this section shall be grounds for suspension of the license.

SECTION 23. AMENDATORY Section 90, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-120), is amended to read as follows:

Section 3-120. No mixed beverage, beer and wine, caterer, public event or bottle club licensee, partner in any type of partnership, manager or member of a limited liability company, officer, director or stockholder of any corporate licensee owning more than fifteen percent (15%) of the stock shall have any right, title, lien, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any package store, beer distributor, brewer, manufacturer or wholesaler. The provisions of this section shall not prohibit a person who is an officer or director of a fraternal or veteran's organization which is a tax exempt organization under Section 501(c)(8), (10) or (19) of the Internal Revenue Code and which holds a license issued by the

ABLE Commission from having a right, title, lien, claim or interest in the premises, equipment, business or merchandise of a package store.

SECTION 24. AMENDATORY Section 91, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-121), is amended to read as follows:

Section 3-121. No manufacturer, brewer, wine and spirits wholesaler, beer distributor, partner in any type of partnership, manager or member of a limited liability company, or officer, director or stockholder of any nonresident seller, brewer, or manufacturer licensee, owning more than fifteen percent (15%) of the stock shall have any right, title, claim or interest, financial or otherwise in, upon or to the premises, equipment, business or merchandise of any mixed beverage, beer and wine, caterer, public event or bottle club licensee.

SECTION 25. AMENDATORY Section 92, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 3-122), is amended to read as follows:

Section 3-122. A. As used in this section:

1. "Interactive entertainment facility" means premises that feature interactive computer and video entertainment attractions, themed merchandise, food and alcoholic beverages; and

2. "Main purpose of the business" means that the total gross income derived from interactive entertainment exceeds the total gross income derived from the sale, mixing, or serving of alcoholic beverages.

B. Nothing in Sections 89 or 90 of this act shall be construed as prohibiting the issuance, transfer or renewal of any mixed beverage license to any person or corporation with respect to premises that are an integral part of an interactive entertainment facility in which a manufacturer, brewer, nonresident seller, distiller or rectifier has an interest, directly or indirectly, of less than thirty percent (30%) if all the following conditions are met:



1. The main purpose of the business conducted within the facility is providing interactive entertainment, not the sale of alcoholic beverages;

2. The mixed beverage licensee shall serve other brands of wine, beer and alcoholic beverages in addition to the brands manufactured, produced or distributed by any distiller, rectifier, nonresident seller, brewer or manufacturer that has a direct or indirect interest in the mixed beverage license;

3. No more than twenty percent (20%) of the mixed beverage licensee's purchases of alcoholic beverages for sale on its licensed premises shall be products manufactured, produced or distributed by the manufacturer, brewer, distiller, rectifier or nonresident seller that has a direct or indirect interest in the licensed premises;

4. The licensee purchases all alcoholic beverages and beer sold on the premises from wholesalers or distributors that are licensed in Oklahoma;

5. The distiller, rectifier, nonresident seller, brewer or manufacturer does not control, directly or indirectly, the day-to-day operation of the licensed premises; and

6. Officers, directors and employees of the distiller, rectifier, nonresident seller, brewer or manufacturer do not serve as officers or directors of the entity operating the licensed premises.

SECTION 26. AMENDATORY Section 101, Chapter 366, O.S.L. 2016, as amended by Section 21, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 4-104), is amended to read as follows:

Section 4-104. Municipalities are hereby authorized to levy an annual occupational tax for the privilege of operating as a retailer, mixed beverage, beer and wine, caterer, public event or special event licensee, bottle club, manufacturer, brewer, wine and spirits wholesaler or beer distributor, within their respective jurisdictions, not to exceed the state license fee for such licensees; provided, the tax shall be levied only by the municipality in which such licensee has its principal place of business. This section shall not give any municipality any right to

determine or regulate the issuance of any license, except as specifically provided for in this section, as the ABLE Commission shall have exclusive authority as to issuance and regulations of licenses. No municipality may prescribe rules or regulations in conflict with or in addition to the statutes of this state or the rules of the ABLE Commission. No licensee shall be held liable for engaging in business otherwise authorized under this title with any other retailer, mixed beverage, beer and wine, caterer, public event or special event licensee, bottle club, manufacturer, brewer, wine and spirits wholesaler or beer distributor solely because such other party has failed to pay any occupational tax due under this section.

Municipalities which levy an occupational tax under this section shall make an annual report to the ABLE Commission, covering the fiscal year, showing the number and class of licensees subject to the tax authorized by this section, and the amount of money received therefrom, which information is to be included in the annual report of the ABLE Commission submitted to the Governor, and transmitted to the Legislature.

SECTION 27. AMENDATORY Section 111, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-108), is amended to read as follows:

Section 5-108. A. The Oklahoma Tax Commission shall promulgate rules to implement a reporting method of taxing all alcoholic beverages sold or delivered in this state to eliminate the use of any type of stamps.

~~B. Every manufacturer or brewer manufacturing or brewing any beer in this state, for sale in this state, and every manufacturer or brewer outside of the state, shipping any beer into this state, shall cause to be printed, upon an affixed label around and upon the body of each bottle or upon the top or the lid of each can of such beer, a symbol or other designation, approved by the Tax Commission, including such information as the Tax Commission may require. Brewers shall be required to submit samples of crowns, tops and labels to the Tax Commission for approval.~~

~~C. Payment of the excise tax levied by the Oklahoma Alcoholic Beverage Control Act, with respect to beer shall be made by the manufacturer or brewer as to all beer produced by such brewer within~~

the state for sale within this state, and shall be made by the importing manufacturer or beer distributor who is the original consignee of beer manufactured or produced outside of this state as to all beer imported into this state by such importing licensee. It is the duty of each Oklahoma licensed brewer with respect to beer produced by such brewer within this state, and of each Oklahoma licensed beer distributor as to beer produced outside of this state and imported into this state by such beer distributor, to pay the excise tax on such beer to the Oklahoma Tax Commission as hereinafter provided.

~~D.~~ C. Notwithstanding any other provision of law, the tax levied by the Oklahoma Alcoholic Beverage Control Act shall be part of the gross proceeds or gross receipts from the sale of alcoholic beverages, as those terms are defined in paragraph 12 of Section 1352 of Title 68 of the Oklahoma Statutes.

SECTION 28. AMENDATORY Section 112, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-109), is amended to read as follows:

Section 5-109. The Oklahoma Tax Commission shall have authority to allow credit for or make refunds of any money paid for stamps issued by the Tax Commission in payment of state excise tax by the manufacturer or brewer pursuant to authority granted by the Tax Commission. All applications to the Tax Commission for credit or replacement under the provisions of this section shall be verified by affidavit and all proof and evidence supporting such application shall be made in strict conformity with the rules of the Tax Commission setting forth the requirements in connection with such evidence and application.

SECTION 29. AMENDATORY Section 116, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-113), is amended to read as follows:

Section 5-113. A. The Oklahoma Tax Commission, as provided by the Uniform Tax Procedure Code, may issue a distributor permit or wholesaler permit to any person who sells alcoholic beverages to a wine and spirits wholesaler or beer distributor or to any person having a wholesaler license.

B. Each wholesaler or beer distributor shall furnish a copy of the wholesaler or distributor permit to manufacturers, brewers, importers, brokers and others who sell alcoholic beverages prior to purchasing alcoholic beverages from a holder of a wholesaler or distributor permit. Each manufacturer, brewer, importer, broker and other who sells alcoholic beverages shall furnish a copy of the wholesaler or distributor permit to the wine and spirits wholesaler or beer distributor prior to selling alcoholic beverages to a wholesaler or distributor.

C. Holders of distributor permits or wholesaler permits shall maintain an itemized and verified record for the preceding calendar month of all sales or purchases of alcoholic beverages and shall transmit the verified record to the Tax Commission on or before the tenth day of each month, upon a form prescribed and furnished by the Tax Commission. Permit holders shall maintain records of sales and purchases of alcoholic beverages for three (3) years.

SECTION 30. AMENDATORY Section 125, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-122), is amended to read as follows:

Section 5-122. Every manufacturer and brewer, subject to licensing hereunder, shall make and transmit to the Oklahoma Tax Commission, on or before the tenth day of each calendar month, upon a form prescribed and furnished by the Tax Commission, an itemized and verified report, for the preceding calendar month, showing:

1. The kind and quantity of all alcoholic beverages manufactured within this state during the month, including:
  - a. the proof of all spirits,
  - b. the kind and quantity of all alcoholic beverages purchased within this state, including the proof of all spirits,
  - c. the kind and quantity of all alcoholic beverages imported into this state during the month, including the proof of all spirits,

- d. the name and ABLE Commission license number of the person from whom purchased or received,
- e. the manifest, bill of lading or invoice number of each shipment, which number shall be the number used by the original seller as shown by the basic shipping records which accompanied the shipment,
- f. the date of receipt of each shipment,
- g. the name and ABLE Commission license number of the carrier, if transported by carrier; and

2. All sales of alcoholic beverages made by such manufacturer or brewer during such calendar month, both within and without Oklahoma, including in detail the kind and quantity of all alcoholic beverages sold, including:

- a. the proof of all spirits, as shown by the invoice covering each such sale,
- b. the invoice number,
- c. the date of each sale,
- d. the name, address and the ABLE Commission license number of the purchaser,
- e. the name and ABLE Commission license number of the carrier, if shipped by carrier, and
- f. such other information as the Tax Commission may require.

SECTION 31. AMENDATORY Section 127, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-124), is amended to read as follows:

Section 5-124. Every manufacturer, brewer, importer, broker or other who sells alcoholic beverages to a wine and spirits wholesaler, or beer distributor in Oklahoma, after having been issued a license by the ABLE Commission, shall, before

manufacturing, purchasing or selling any alcoholic beverage within this state, file with the Oklahoma Tax Commission a bond issued by a surety company authorized to transact business in this state, in such amount as the Tax Commission may fix, but which shall be at least equal to the estimated amount of the tax liability of such licensee for a three-month period, to secure the payment of all excise taxes due from sales of alcoholic beverages to a wholesaler, or beer distributor, under the provisions of the Oklahoma Alcoholic Beverage Control Act. Provided, the amount of the bond for every wholesaler or beer distributor shall be not less than One Thousand Dollars (\$1,000.00). Such bonds shall be payable to the State of Oklahoma and conditioned upon compliance with the excise tax provisions of the Oklahoma Alcoholic Beverage Control Act and the rules of the Tax Commission relating thereto. In lieu of such surety bond, any such manufacturer, brewer, wine and spirits wholesaler, or beer distributor, may deposit cash or negotiable securities, approved by the Tax Commission, in such amount as it may prescribe.

SECTION 32. AMENDATORY Section 128, Chapter 366, O.S.L. 2016, as amended by Section 4, Chapter 113, O.S.L. 2018 (37A O.S. Supp. 2018, Section 5-125), is amended to read as follows:

Section 5-125. A. Every manufacturer, brewer, wine and spirits wholesaler, beer distributor or nonresident seller, selling alcoholic beverages in this state, or selling alcoholic beverages for shipment into this state shall, at the time such sale is made, make and deliver to the purchaser or transporter an invoice, bill of lading, manifest or other document describing such alcoholic beverages, showing:

1. The date of such sale or delivery;
2. The name and ABLE Commission license number of the seller;
3. The point of origin of the movement of such alcoholic beverages and the destination of same;
4. The kind and quantity and a description of such alcoholic beverages, including the proof of all spirits;

5. The name and ABLE Commission license number of the purchaser;

6. The sale price; and

7. Such other information as the Oklahoma Tax Commission may, by form or rule, require.

Every such invoice, bill of lading, manifest or other document describing such alcoholic beverages, except beer, must be identified by consecutive numbers printed upon the invoice or document, and each such seller and purchaser must account for each copy of his or her invoice and each number thereof.

B. Every manufacturer, brewer, wine and spirits wholesaler or beer distributor importing into or purchasing in this state any alcoholic beverage, and any retailer purchasing any alcoholic beverage in this state, shall at the time of delivery or acceptance of such alcoholic beverage, demand and receive a proper bill of lading, invoice, manifest or other document, particularly describing such alcoholic beverage and showing the proof of all spirits.

C. Every manufacturer, brewer, wine and spirits wholesaler, beer distributor, nonresident seller and retailer shall retain one copy of each invoice, bill of lading, manifest or similar document covering all such sales and purchases by such licensee, as a part of the permanent records of such licensee for a period of at least three (3) years.

D. Any person violating any of the provisions of this section, whether acting for himself or herself or as the agent or employee of any licensee hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law. Any violation of the provisions of this section shall also constitute grounds for the revocation by the ABLE Commission of any license issued under the Oklahoma Alcoholic Beverage Control Act.

SECTION 33. AMENDATORY Section 129, Chapter 366, O.S.L. 2016 (37A O.S. Supp. 2018, Section 5-126), is amended to read as follows:

Section 5-126. Every manufacturer, brewer, wine and spirits wholesaler, beer distributor, nonresident seller, retailer, mixed beverage, caterer, public event and special event licensee shall keep a record of all alcoholic beverages imported, purchased, received, manufactured, produced, sold, delivered or otherwise disposed of, and the amount of all alcoholic beverages on hand, as herein provided. Such records must be kept for a period of at least three (3) years and shall include:

1. The date;

2. The number of the invoice, manifest, bill of lading or similar type document; and

3. The total amount of alcoholic beverages purchased, imported, received, manufactured, produced, sold, delivered or otherwise disposed of, by such licensee in each transaction.

Each such licensee shall keep and maintain such other records in details as the Oklahoma Tax Commission may require.

SECTION 34. AMENDATORY Section 135, Chapter 366, O.S.L. 2016, as amended by Section 23, Chapter 364, O.S.L. 2017 (37A O.S. Supp. 2018, Section 5-132), is amended to read as follows:

Section 5-132. A. Except as provided in subsection D of this section, no alcoholic beverage shall be labeled, offered or advertised for sale in this state unless in accordance with rules promulgated pursuant to the provisions of Section 5-130 of this title and unless the brand label shall have been registered with and approved by the ABLE Commission and the appropriate fee paid as provided for in this section.

B. An application for registration of a brand label shall be filed by and fees paid by the manufacturer or brewer of the brand if the manufacturer or brewer is licensed by the ABLE Commission; however, if the brewer or manufacturer is represented by a manufacturer's agent, licensed nonresident seller, wine and spirits wholesaler or beer distributor, then the manufacturer's agent, nonresident seller, wine and spirits wholesaler or beer distributor ~~shall~~ may submit each label for each product the manufacturer or brewer offers for sale in this state, along with payment of the



brand registration fee, on behalf of the manufacturer or brewer; provided, the manufacturer or brewer must fully reimburse the manufacturer's agent, licensed nonresident seller, wine and spirits wholesaler or beer distributor for the cost of the brand registration fee within forty-five (45) days of the time the original brand registration fee is paid. Cordials and wines which differ only as to age or vintage year, as defined by such rules, shall be considered the same brand, and those that differ as to type or class may be considered the same brand by the ABLE Commission where consistent with the purposes of this section.

C. The application for registration of a brand label shall be filed on a form prescribed by the ABLE Commission, and shall contain such information as the ABLE Commission shall require. Such application shall be accompanied by a certified check, bank officers' check or draft or money order in the amount of the annual registration fee, or the properly prorated portion thereof prescribed by this section.

D. 1. The annual fee for registration of any brand label for spirits shall be Three Hundred Seventy-five Dollars (\$375.00). The annual fee for registration of any brand label for beer shall be Two Hundred Dollars (\$200.00). The annual fee for registration of any brand label for wine made in the United States, or for registration of any category of imported wine as defined by the Tax Commission, shall be Two Hundred Dollars (\$200.00). Beer manufactured in this state shall be exempt from brand label registration fees.

2. Each brand label registered and approved pursuant to this section shall be valid for a term of up to one (1) year, expiring on the June 30 next following registration, and may be renewed for subsequent terms of one (1) year beginning on the July 1 following the initial registration. Brand registration fees for labels registered after July 1 may be prorated through the following June 30 on a quarterly basis. The brand registration fee shall not be transferable, unless otherwise allowed by law. A nonresident seller who registered brands prior to the effective date of this act may transfer brand registrations to the brewer or manufacturer that produces those brands, provided the brewer or manufacturer has obtained a license, at no expense to the nonresident seller, brewer or manufacturer.

E. If the ABLE Commission shall deny the application for registration of a brand label, it shall return the registration fee to the applicant, less twenty-five percent (25%) of such fee.

F. The ABLE Commission may at any time exempt any discontinued brand from fee provisions of this section where a manufacturer, brewer, beer distributor or wholesaler has an inventory of one hundred cases or less of liquor or wine and five hundred cases or less of beer, and certifies to the ABLE Commission in writing that such brand is being discontinued.

G. No private labels or control labels shall be approved for sale in this state.

SECTION 35. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 1st day of May, 2019.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2019.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_